

**IC 31-39**

**ARTICLE 39. JUVENILE LAW: JUVENILE RECORDS**

**IC 31-39-1**

**Chapter 1. Confidentiality of Juvenile Court Records**

**IC 31-39-1-1**

Sec. 1. (a) This chapter applies to all records of the juvenile court except the following:

- (1) Records involving an adult charged with a crime or criminal contempt of court.
- (2) Records involving a pregnant minor or her physician seeking a waiver of the requirement under IC 35-1-58.5-2.5 (before its repeal) or IC 16-34-2-4 that a physician who performs an abortion on an unemancipated minor first obtain the written consent of the minor's parent or guardian.

(b) The legal records subject to this chapter include the following:

- (1) Chronological case summaries.
- (2) Index entries.
- (3) Summonses.
- (4) Warrants.
- (5) Petitions.
- (6) Orders.
- (7) Motions.
- (8) Decrees.

*As added by P.L.1-1997, SEC.22.*

**IC 31-39-1-2**

Sec. 2. All juvenile court records subject to this chapter are confidential and are available only in accordance with IC 31-39-2. The court shall take appropriate actions to protect juvenile court records governed by this chapter from unauthorized disclosure.

*As added by P.L.1-1997, SEC.22.*

## **IC 31-39-2**

### **Chapter 2. Persons Entitled to Access to Juvenile Court Records**

#### **IC 31-39-2-1**

Sec. 1. (a) This chapter applies to all records of the juvenile court except the following:

- (1) Records involving an adult charged with a crime or criminal contempt of court.
- (2) Records involving a pregnant minor or her physician seeking a waiver of the requirement under IC 35-1-58.5-2.5 (before its repeal) or IC 16-34-2-4 that a physician who performs an abortion on an unemancipated minor first obtain the written consent of the minor's parent or guardian.
- (b) The legal records subject to this chapter include the following:
  - (1) Chronological case summaries.
  - (2) Index summaries.
  - (3) Summonses.
  - (4) Warrants.
  - (5) Petitions.
  - (6) Orders.
  - (7) Motions.
  - (8) Decrees.

*As added by P.L.1-1997, SEC.22.*

#### **IC 31-39-2-2**

Sec. 2. The records of the juvenile court are available without a court order to the judge or any authorized staff member.

*As added by P.L.1-1997, SEC.22.*

#### **IC 31-39-2-3**

Sec. 3. (a) Except as provided in subsections (b) and (c), the records of the juvenile court are available without a court order to any party and the party's attorney. The party and the party's attorney may only review the records applicable to the proceeding in which the person is a party.

(b) A child excluded from a hearing under IC 31-32-6 may be denied access to records pertaining to that subject matter.

(c) A person who was denied access to a predisposition report or the records for a dispositional hearing may be denied access to that subject matter.

*As added by P.L.1-1997, SEC.22.*

#### **IC 31-39-2-4**

Sec. 4. The records of the juvenile court are available without a court order to the judge of a court having criminal jurisdiction or any authorized staff member if the record is to be used in a presentence investigation in that court.

*As added by P.L.1-1997, SEC.22.*

#### **IC 31-39-2-5**

Sec. 5. The records of the juvenile court are available without a

court order to the prosecuting attorney or any authorized staff member.  
*As added by P.L.1-1997, SEC.22.*

#### **IC 31-39-2-6**

Sec. 6. The records of the juvenile court are available without a court order to:

- (1) the attorney for the county office of family and children; or
- (2) any authorized staff member of:
  - (A) the county office of family and children;
  - (B) the division of family and children; or
  - (C) the department of correction.

*As added by P.L.1-1997, SEC.22.*

#### **IC 31-39-2-7**

Sec. 7. The records of the juvenile court are available without a court order to the parents of a child whenever the custody or support of that child is in issue in an action initiated under IC 31-15 or IC 31-16 (or IC 31-1-11.5 before its repeal).

*As added by P.L.1-1997, SEC.22.*

#### **IC 31-39-2-8**

Sec. 8. (a) The records of the juvenile court are available without a court order to the public, subject to the restrictions in subsections (b) and (c), whenever a petition has been filed alleging that a child is delinquent as the result of any of the following alleged acts or combination of alleged acts:

- (1) An act that would be murder or a felony if committed by an adult.
- (2) An aggregate of two (2) unrelated acts that would be misdemeanors if committed by an adult if the child was at least twelve (12) years of age when the acts were committed.
- (3) An aggregate of five (5) unrelated acts that would be misdemeanors if committed by an adult if the child was less than twelve (12) years of age when the acts were committed.

(b) Only the following information or documents may be released under this section:

- (1) The child's name.
- (2) The child's age.
- (3) The nature of the offense.
- (4) Chronological case summaries.
- (5) Index entries.
- (6) Summonses.
- (7) Warrants.
- (8) Petitions.
- (9) Orders.
- (10) Motions, excluding:
  - (A) motions concerning psychological evaluations; and
  - (B) motions concerning child abuse and neglect.
- (11) Decrees.
- (12) If the child is adjudicated as a delinquent child for an act or combination of acts described in subsection (a)(1), (a)(2), or

(a)(3), the child's photograph.

(c) The clerk of the juvenile court shall place all other records of the child alleged to be or adjudicated as a delinquent child in an envelope marked "confidential" inside the court's file pertaining to the child. Records placed in the confidential envelope may only be released to persons who are allowed disclosure under this section or section 2, 3, 4, 5, 6, 7 or 10 of this chapter. The identifying information of any child who is a victim or a witness shall remain confidential under this section.

*As added by P.L.1-1997, SEC.22.*

#### **IC 31-39-2-9**

Sec. 9. The juvenile court may grant any person providing services to the child or the child's family access to the records on the child and the child's family.

*As added by P.L.1-1997, SEC.22.*

#### **IC 31-39-2-10**

Sec. 10. (a) Subject to section 15 of this chapter, the juvenile court may grant any person having a legitimate interest in the work of the court or in a particular case access to the court's legal records. In exercising its discretion, the court shall consider that the best interests of the safety and welfare of the community are generally served by the public's ability to obtain information about:

- (1) the alleged commission of an act that would be murder or a felony if committed by an adult; or
- (2) the alleged commission of an act that would be part of a pattern of less serious offenses.

(b) A person having access to the records under this section is not bound by the confidentiality provisions of IC 31-39-1 and may disclose the contents of the records.

*As added by P.L.1-1997, SEC.22.*

#### **IC 31-39-2-11**

Sec. 11. The juvenile court shall grant any person involved in a legitimate research activity access to the court's confidential records if:

- (1) the person conducting the research provides written information about:
  - (A) the purpose of the person's project, including any intent to publish the person's findings;
  - (B) the nature of the data the person seeks to collect and how the person intends to analyze the data;
  - (C) the records the person seeks to review; and
  - (D) the safeguards the person will take to protect the identity of the persons whose records the person will be reviewing;
- (2) the proposed safeguards are adequate to protect the identity of each person whose records the researcher will review;
- (3) the court informs the researcher of the provisions of IC 31-39-1 and this chapter, including the criminal liability of a person who recklessly fails to protect the records; and
- (4) an agreement is executed between the court and the person

responsible for the research that specifies the terms of the researcher's use of the records.

*As added by P.L.1-1997, SEC.22.*

#### **IC 31-39-2-12**

Sec. 12. (a) The juvenile court shall grant any party to a criminal or juvenile delinquency proceeding access to a person's legal records if the information may be used:

- (1) to impeach the person as a witness; or
- (2) to discredit the person's reputation if the person places reputation in issue.

(b) The information described in subsection (a) may only be used in criminal or juvenile delinquency proceedings in accordance with the law of evidence.

*As added by P.L.1-1997, SEC.22.*

#### **IC 31-39-2-13**

Sec. 13. (a) The juvenile court may grant the victim of a delinquent act, or a member of the victim's family, access to the court's legal records if the information may be used in a civil action against:

- (1) the child who committed the act; or
- (2) the child's parent.

(b) A person having access to the records under this section may disclose the contents of the record if disclosure is necessary to prosecute any civil action.

*As added by P.L.1-1997, SEC.22.*

#### **IC 31-39-2-14**

Sec. 14. Whenever the juvenile court grants access to its records, the court shall place a copy of the access order in the file of each person to whose records the order applies. However, if the access order is a general access order or an agreement under section 11 of this chapter (or IC 31-6-8-1(e) before its repeal), the copy shall be placed in a general file containing all general access orders or agreements under section 11 of this chapter (or IC 31-6-8-1(e) before its repeal).

*As added by P.L.1-1997, SEC.22.*

#### **IC 31-39-2-15**

Sec. 15. A person who is at least eighteen (18) years of age may waive the restrictions on access to the person's records if the person does so in writing, stating the terms of the person's waiver.

*As added by P.L.1-1997, SEC.22.*

### **IC 31-39-3**

#### **Chapter 3. Confidentiality of Law Enforcement Records**

### **IC 31-39-3-1**

Sec. 1. This chapter applies to all law enforcement records involving allegations that a child is a delinquent child or a child in need of services.

*As added by P.L.1-1997, SEC.22.*

### **IC 31-39-3-2**

Sec. 2. The following information contained in records involving allegations of delinquency that would be a crime if committed by an adult is considered public information:

- (1) The nature of the offense allegedly committed and the circumstances immediately surrounding the alleged offense, including the time, location, and property involved.
- (2) The identity of any victim.
- (3) A description of the method of apprehension.
- (4) Any instrument of physical force used.
- (5) The identity of any officers assigned to the investigation, except for the undercover units.
- (6) The age and sex of any child apprehended or sought for the alleged commission of the offense.
- (7) The identity of a child, if the child is apprehended or sought for the alleged commission of:
  - (A) an offense over which a juvenile court does not have jurisdiction under IC 31-30-1-2 and IC 31-30-1-4; or
  - (B) an act specified under IC 31-30-3-3.

*As added by P.L.1-1997, SEC.22.*

### **IC 31-39-3-3**

Sec. 3. Records relating to the detention of any child in a secure facility shall be open to public inspection.

*As added by P.L.1-1997, SEC.22.*

### **IC 31-39-3-4**

Sec. 4. (a) All law enforcement records except those described in sections 2 and 3 of this chapter are confidential and are available only in accordance with IC 31-39-4.

(b) Each law enforcement agency shall take appropriate actions to protect the records described in subsection (a) from unauthorized disclosure.

*As added by P.L.1-1997, SEC.22.*

#### **IC 31-39-4**

#### **Chapter 4. Persons Entitled to Access to Law Enforcement Records**

##### **IC 31-39-4-1**

Sec. 1. This chapter applies to all law enforcement records involving allegations that a child is a delinquent child or a child in need of services.

*As added by P.L.1-1997, SEC.22.*

##### **IC 31-39-4-2**

Sec. 2. The records of a law enforcement agency are available, without specific permission from the head of the agency, to a law enforcement officer acting within the scope of the officer's lawful duties.

*As added by P.L.1-1997, SEC.22.*

##### **IC 31-39-4-3**

Sec. 3. The records of a law enforcement agency are available, without specific permission from the head of the agency, to the judge of the juvenile court or any authorized staff member.

*As added by P.L.1-1997, SEC.22.*

##### **IC 31-39-4-4**

Sec. 4. (a) The records of a law enforcement agency are available, without specific permission from the head of the agency, to any party to a juvenile court proceeding and the party's attorney. However, a:

- (1) child excluded from a hearing by IC 31-32-6 may be denied access to records pertaining to that subject matter; and
- (2) person who was denied access to a predispositional report or the records for a dispositional hearing may be denied access to that subject matter.

(b) The party and the party's attorney may only review the records applicable to the proceeding in which the person is a party.

*As added by P.L.1-1997, SEC.22.*

##### **IC 31-39-4-5**

Sec. 5. The records of a law enforcement agency are available, without specific permission from the head of the agency, to the judge of a court having criminal jurisdiction or any authorized staff member if the record is to be used in a presentence investigation in that court.

*As added by P.L.1-1997, SEC.22.*

##### **IC 31-39-4-6**

Sec. 6. The records of a law enforcement agency are available, without specific permission from the head of the agency, to the prosecuting attorney or any authorized member of the staff of the prosecuting attorney.

*As added by P.L.1-1997, SEC.22.*

##### **IC 31-39-4-7**

Sec. 7. The records of a law enforcement agency are available, without specific permission from the head of the agency, to the attorney for the county office of family and children or any authorized staff member.

*As added by P.L.1-1997, SEC.22.*

#### **IC 31-39-4-8**

Sec. 8. (a) The head of a law enforcement agency or that person's designee may grant any person having a legitimate interest in the work of the agency or in a particular case access to the agency's confidential records. In exercising discretion, the head of a law enforcement agency shall consider that the best interests of the safety and welfare of the community are generally served by the public's ability to obtain information about:

(1) the identity of anyone charged with the alleged commission of any act that would be murder or a felony if committed by an adult; and

(2) the identity of anyone charged with the alleged commission of an act that would be part of a pattern of less serious offenses.

(b) A person having access to records under this section is not bound by the confidentiality provisions of IC 31-39-3 and may disclose the contents of the records.

*As added by P.L.1-1997, SEC.22.*

#### **IC 31-39-4-9**

Sec. 9. The head of a law enforcement agency may grant any person involved in a legitimate research activity access to the agency's confidential records if:

(1) the person conducting the research provides written information about:

(A) the purpose of the person's project, including any intent to publish the person's findings;

(B) the nature of the data the person seeks to collect and how the person intends to analyze the data;

(C) the records the person seeks to review; and

(D) the safeguards the person will take to protect the identity of the persons whose records will be reviewed;

(2) the proposed safeguards are adequate to protect the identity of each person whose records the researcher will review;

(3) the agency informs the researcher of the provisions of this section including the criminal liability of a person who recklessly fails to protect the records; and

(4) an agreement is executed between the agency and the person responsible for the research that specifies the terms of the researcher's use of the records.

*As added by P.L.1-1997, SEC.22.*

#### **IC 31-39-4-10**

Sec. 10. (a) The head of the law enforcement agency shall grant any party to a criminal or juvenile delinquency proceeding access to a person's records if the information may be used:



- (1) to impeach the person as a witness; or
- (2) to discredit the person's reputation if the person places reputation in issue.

(b) The information may only be used in criminal or juvenile delinquency proceedings in accordance with the law of evidence.

*As added by P.L.1-1997, SEC.22.*

#### **IC 31-39-4-11**

Sec. 11. The victim of a delinquent act may ask a law enforcement agency if there is probable cause to believe that a specified child committed the act. The head of the agency shall release the child's name to the victim if the victim requires the name to proceed with a civil action for damages.

*As added by P.L.1-1997, SEC.22.*

#### **IC 31-39-4-12**

Sec. 12. Whenever the head of a law enforcement agency grants access to the agency's records, that person shall place a copy of the access order in the file of each person to whose records the order applies. However, if the access order is a general access order or an agreement under section 9 of this chapter (or IC 31-6-8-1.2(d) before its repeal), the copy shall be placed in a general file containing all general access orders or agreements.

*As added by P.L.1-1997, SEC.22.*

#### **IC 31-39-4-13**

Sec. 13. A person who is at least eighteen (18) years of age may waive the restrictions on access to the person's records if the person does so in writing, stating the terms of the waiver.

*As added by P.L.1-1997, SEC.22.*

#### **IC 31-39-4-14**

Sec. 14. A judge of a juvenile court or the judge's employees may not exercise any jurisdiction or control over:

- (1) records kept and maintained by law enforcement agencies relating to juveniles; and
- (2) the discretion granted to heads of law enforcement agencies to release, or to grant access to, records and information unless otherwise specifically provided in the juvenile law. Any specific authority that is granted does not imply the existence of any other jurisdiction or control.

*As added by P.L.1-1997, SEC.22.*

## **IC 31-39-5**

### **Chapter 5. Fingerprints or Photographs of Child**

#### **IC 31-39-5-1**

Sec. 1. (a) A law enforcement agency may take and file the fingerprints or photographs of a child if:

- (1) the child is taken into custody for an act that would be a felony if committed by an adult; and
- (2) the child was at least fourteen (14) years of age when the act was allegedly committed.

(b) A juvenile court may, by general order, limit fingerprinting and photographing of children to situations in which children are charged with specified offenses.

*As added by P.L.1-1997, SEC.22.*

#### **IC 31-39-5-2**

Sec. 2. Fingerprint and photograph files of children shall be separated from those of adults. The files are subject to the confidentiality provisions of IC 31-39-3.

*As added by P.L.1-1997, SEC.22.*

#### **IC 31-39-5-3**

Sec. 3. If:

- (1) latent fingerprints are found during the investigation of an offense; and
- (2) a law enforcement officer has probable cause to believe that the latent fingerprints belong to a certain child;

the officer may fingerprint that child and compare the child's fingerprints with the latent fingerprints.

*As added by P.L.1-1997, SEC.22.*

#### **IC 31-39-5-4**

Sec. 4. (a) Upon written request of the child or the child's parent, guardian, or custodian, a law enforcement agency shall destroy or deliver to the child any of the child's fingerprints or photographs taken under section 1 of this chapter that are within that agency's possession if:

- (1) the child was taken into custody and no petition was filed against the child;
- (2) the petition was dismissed because of mistaken identity;
- (3) the petition was dismissed because no delinquent act was actually committed; or
- (4) the petition was dismissed for lack of probable cause.

(b) If the child has a record of prior arrests or if another charge is pending against the child, the law enforcement agency does not have to destroy the child's fingerprints or photographs.

*As added by P.L.1-1997, SEC.22.*

#### **IC 31-39-5-5**

Sec. 5. At the time a law enforcement agency takes a child's fingerprints or photographs, the law enforcement agency shall give

written notice to the child and the child's parent, guardian, or custodian of the child's rights under section 4 of this chapter. The agency shall comply with any request for destruction or surrender of the records not later than sixty (60) days of the request.

*As added by P.L.1-1997, SEC.22.*

#### **IC 31-39-5-6**

Sec. 6. Any law enforcement agency that has forwarded copies of fingerprints or photographs that the law enforcement agency must destroy under section 4 of this chapter to any agency of the United States, of any other state, or of this state, shall request in writing that all copies be returned for destruction or for presentation to the child.

*As added by P.L.1-1997, SEC.22.*

#### **IC 31-39-5-7**

Sec. 7. Whenever fingerprints or photographs are expunged from the files of a law enforcement agency under section 4 of this chapter, the law enforcement agency may retain no other information on the incident. However, this section does not require the alteration of any law enforcement record, such as a blotter entry made at the time of arrest, or of any record in the juvenile court.

*As added by P.L.1-1997, SEC.22.*

**IC 31-39-6**

**Chapter 6. Confidentiality of School Records**

**IC 31-39-6-1**

Sec. 1. If:

- (1) a preliminary inquiry under IC 31-34-7 or IC 31-37-8 takes place in a school; and
- (2) the preliminary inquiry is conducted in the presence of school officials;

any record of the proceeding compiled by school officials is confidential and is not open to public inspection under IC 5-14-3-3.

*As added by P.L.1-1997, SEC.22.*

**IC 31-39-7****Chapter 7. Correction of Incorrect or Misleading Information****IC 31-39-7-1**

Sec. 1. A person on whom juvenile court records subject to IC 31-39-1 and IC 31-39-2 are maintained may request the court to modify any information that the person believes is incorrect or misleading.

*As added by P.L.1-1997, SEC.22.*

**IC 31-39-7-2**

Sec. 2. A person on whom law enforcement records subject to IC 31-39-3 and IC 31-39-4 are maintained may request the law enforcement agency to modify any information that the person believes is incorrect or misleading.

*As added by P.L.1-1997, SEC.22.*

## **IC 31-39-8**

### **Chapter 8. Expungement of Records Concerning Delinquent Child or Child in Need of Services**

#### **IC 31-39-8-1**

Sec. 1. This chapter applies only to records created as a result of allegations that a child is a delinquent child or a child in need of services.

*As added by P.L.1-1997, SEC.22.*

#### **IC 31-39-8-2**

Sec. 2. Any person may petition a juvenile court at any time to remove from:

- (1) the court's files;
- (2) the files of law enforcement agencies; and
- (3) the files of any other person who has provided services to a child under a court order;

those records pertaining to the person's involvement in juvenile court proceedings.

*As added by P.L.1-1997, SEC.22.*

#### **IC 31-39-8-3**

Sec. 3. In considering whether to grant the petition, the juvenile court may review:

- (1) the best interests of the child;
- (2) the age of the person during the person's contact with the juvenile court or law enforcement agency;
- (3) the nature of any allegations;
- (4) whether there was an informal adjustment or an adjudication;
- (5) the disposition of the case;
- (6) the manner in which the person participated in any court ordered or supervised services;
- (7) the time during which the person has been without contact with the juvenile court or with any law enforcement agency;
- (8) whether the person acquired a criminal record; and
- (9) the person's current status.

*As added by P.L.1-1997, SEC.22.*

#### **IC 31-39-8-4**

Sec. 4. (a) Child abuse or neglect information may be expunged under this chapter if the probative value of the information is so doubtful as to outweigh the information's validity.

(b) Child abuse or neglect information shall be expunged if the information is determined to be unsubstantiated after:

- (1) an investigation of a report of a child who may be a victim of child abuse or neglect by the child protection service; or
- (2) a court proceeding.

*As added by P.L.1-1997, SEC.22.*

#### **IC 31-39-8-5**

Sec. 5. If the court grants the expungement petition, the court shall

order each law enforcement agency and each person who provided treatment for the child under an order of the court to send that person's records to the court.

*As added by P.L.1-1997, SEC.22.*

**IC 31-39-8-6**

Sec. 6. The records may be destroyed or given to the person to whom the records pertain.

*As added by P.L.1-1997, SEC.22.*

**IC 31-39-8-7**

Sec. 7. If a person whose records are expunged brings an action that might be defended with the contents of the records, the defendant is presumed to have a complete defense to the action. For the plaintiff to recover, the plaintiff must show that the contents of the expunged records would not exonerate the defendant. The plaintiff may be required to state under oath whether the plaintiff had records in the juvenile justice system and whether those records were expunged. If the plaintiff denies the existence of the records, the defendant may prove the existence of the records in any manner compatible with the law of evidence.

*As added by P.L.1-1997, SEC.22.*